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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,620	01/16/2004	Charles A. Eldering	T708-14	1665
81712 7590 10/03/2008 Carlinco, Spicer & Kee, LLC 2003 S. Easton Road, Suite 208 Doylestown, PA 18901				
EXAMINER				
CHIN, RICKY				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/759,620

Applicant(s)

ELDERING ET AL.

Examiner

RICKY CHIN

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-20, 22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-20, and 22-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/08)
Paper No(s)/Mail Date 6-27-05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed September 12, 2008 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims (1-3, 5-20, 22, and 23) are rejected under 35 U.S.C. 103(a) as being unpatentable over Carles, US 5,661,516 in view of Bryant, US 5,652,615.

Regarding claim 1, Carles discloses of a method for managing selection and insertion of advertisements (See Abstract), the method comprising: determining subscriber characteristics (See col. 3 lines 1-15- col. 4 lines 1-10 which discloses identifying and providing information about categories of recipients and groups of households defining its region) for an advertisement opportunity within a program stream (See col. 3 lines 40-65 which discloses breaks in program material for commercial insertion for each household); receiving at least one request for advertisement presentation (See col. 3 lines 30-62 which discloses the insertions for each subscriber during each break are determined by the CMMS 11 and are communicated to server 10 for insertion

Art Unit: 2623

into schedule 31. Therefore, a request is being made by the CMMS and being received by the server), the at least one request including advertisement characteristics, comprising intended target market characteristics (See col.3 lines 44-55 which discloses that based upon information contained in the commercial muting database and information embedded in the commercial message CMMS will select certain households to receive certain commercial messages and will convey that information to server 10 for storage in commercial message schedule 31, thus comprising of an intended target market of households); and selecting targeted advertisements for insertion into the advertisement opportunity, wherein the targeted advertisements are selected by comparing the intended target market characteristics to the subscriber characteristics (See col.3 lines 16-60 and col. 4 lines 66-col. 5 lines 1-20 which discloses the CMMS communicating to the server for insertion into the schedule and determining the commercials to be sent to a subscriber based on profile household data in profile database 36)

Carles does not explicitly teach of determining an avail bandwidth and minimum bandwidth requirements, wherein the minimum bandwidth requirements represent required amount of bandwidth available within the program stream for the advertisement to be inserted, wherein the targeted advertisements are also selected by comparing the avail bandwidth to the minimum bandwidth requirements.

However, in the same field of endeavor, Bryant teaches of determining an avail bandwidth and minimum bandwidth requirements (See col. 4 lines 37-45

and Fig. 3 which discloses the relative indication of bandwidth requirements and col. 5 lines 4-9 which discloses determining the allocated bandwidth available for the base and fill segments), wherein the minimum bandwidth requirements represent required amount of bandwidth available within the program stream for the advertisement to be inserted and wherein the targeted advertisements are also selected by comparing the avail bandwidth to the minimum bandwidth requirements (See col. 5 lines 4-9 which discloses that for a 6Mb/s signal , up to 3.0 Mb/s or four 1.5 Mb/s fill segments can be concurrently broadcast. Hence, in order to be able to allocate the bandwidth necessary to fill the fill segments, the bandwidths of the fill segments must be first determined to see if they would fit the required bandwidth of the signal in combination with the other fill segments if concurrently broadcast. Therefore, fill segments which are too big and use up too much bandwidth cannot fit with other fill segments concurrently cannot be used making selection based on comparing avail bandwidth to minimum bandwidth requirements necessary).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the teachings of Carles to incorporate determining an avail bandwidth and minimum bandwidth requirements, wherein the minimum bandwidth requirements represent required amount of bandwidth available within the program stream for the advertisement to be inserted, wherein the targeted advertisements are also selected by comparing the avail bandwidth to the minimum bandwidth requirements as taught by Bryant to allow a quality

Art Unit: 2623

and successful insertion of a targeted advertisement to occur by preventing overflow and making efficient use of the available bandwidth.

Regarding claim 2, the combination teaches all of the claim limitations of the method of claim 1, the combination further teaches of wherein said selecting targeted advertisements includes selecting advertisements having minimum bandwidth requirements in close proximity to the avail bandwidth. (See Bryant, col. 5 lines 4-9 which discloses fill segment bandwidths in "close" proximity)

Regarding claim 3, the combination teaches all of the claim limitations of the method of claim 1, the combination further teaches of wherein said selecting targeted advertisements includes selecting advertisements having minimum bandwidth requirements less than or equal to the avail bandwidth (See Bryant, col. 5 lines 4-9 and Fig. 3 which discloses bandwidths of the fill segments being less than the avail bandwidth).

Regarding claim 5, the combination teaches all of the claim limitations of the method of claim 1, the combination further teaches of wherein said determining subscriber characteristics includes receiving node characteristics that are an aggregate of the subscriber characteristics for subscribers associated with a node (See Carles, col. 3 lines 16-62 which discloses the conveyed information pertains to a group of households).

Regarding claim 6, the combination teaches all of the claim limitations of the method of claim 1, the combination further teaches of wherein said determining subscriber characteristics includes receiving the subscriber characteristics from publicly available data (See Bryant, col. 4 lines 1-37; Carles, col. 4 lines 4-35, and col.5 lines 1-30)

Regarding claim 7, the combination teaches all of the claim limitations of the method of claim 6. The combination does not explicitly teach of wherein the publicly available data includes real estate records and tax assessment records. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the parameters utilized to include such data as a matter of preference, at least for the desirable benefit of more accurately describing the user.

Regarding claim 8, the combination teaches all of the claim limitations of the method of claim 1, wherein said determining subscriber characteristics includes receiving subscriber characteristics associated with a group of subscribers (See Carles col. 3 lines 16-62 where the information pertains to a group of households).

Regarding claim 9, the claim has been analyzed and rejected for the reasons set forth in the rejection of claim 1.

Regarding claim 10, the combination teaches all of the claim limitations of the system of claim 1, the combination further teaches of wherein the intended target market characteristics include demographics (See Carles, col. 5 lines 1-30 which refers to demographics).

Regarding claim 11, the combination teaches all of the claim limitations of the method of claim 10, the combination further teaches of wherein a probabilistic distribution is assigned to various demographic attributes (See Carles, col. 5 lines 1-45 which refers to weighting on a statistical analysis).

Regarding claim 12, the combination teaches all of the claim limitations of the method of claim 1, the combination further teaches of comprising inserting the targeted advertisement into the avail (See Carles, Abstract and analysis of claim 1).

Regarding claim 13, the combination teaches all of the claim limitations of the method of claim 12, further comprising delivering the advertisement to at least some subset of the subscribers (See Carles, Abstract and col. 5).

Regarding claim 14, the combination teaches all of the claim limitations of the method of claim 13, the combination further teaches of wherein the subset includes individual subscribers (See Carles, Abstract and col. 5).

Regarding claim 15, the combination teaches all of the claim limitations of the method of claim 13, the combination further teaches of wherein the subset includes a group of subscribers (See Carles, Abstract and col. 5).

Regarding claim 16, the combination teaches all of the claim limitations of the method of claim 15, the combination further teaches of wherein the groups of subscribers are generated based on connectivity (See Carles, Abstract and col. 5).

Regarding claim 17, the combination teaches all of the claim limitations of the method of claim 13, the combination further teaches of wherein the subscribers include at least some subset of individuals, households, and groups (See Carles, Abstract and col. 5)

Regarding claim 18, the combination teaches all of the claim limitations of the method of claim 1, the combination further teaches of a multiplexed stream (See Bryant, Fig. 6 and col. 6 lines 55- col. 7 lines 17 which discloses multiple programs in the video stream; also refer to the analysis of claim 1)

Regarding claim 19, the claim has been analyzed and rejected for the same reasons set forth in the rejection of claims 1-3.

Regarding claim 20, the combination teaches all of the claim limitations of the method of claim 19, the combination further teaches of a multiplexed stream (See Bryant, Fig. 6 and col. 6 lines 55- col. 7 lines 17 which discloses multiple programs in the video stream; also refer to the analysis of claims 18-19)

Regarding claim 22, the claim has been analyzed and rejected for the same reasons set forth in the rejection of claims 1-3. Furthermore, acceptable format is

Art Unit: 2623

dependent upon the operator and viewer and sufficient level of comparison can be any level depending on how the level is being gauged. Also refer to Carles col. 8.

Regarding claim 23, the combination teaches all of the claim limitations of the method of claim 22, the combination does not explicitly teach of comprising halting the insertion of the digitally compressed advertisement when the minimum acceptable bit rate is greater than the advertisement insertion opportunity bit rate. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to have included an error detection step as to being able to prevent a possible insertion overload by sending a fill segment requiring greater bandwidth than what the avail can handle or process.

Contact

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky Chin whose telephone number is 571-270-3753. The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Koenig can be reached on 571-272-7296. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information

Art Unit: 2623

for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Ricky Chin/
Patent Examiner
AU 2623
(571) 270-3753
Ricky.Chin@uspto.gov

/Andrew Y Koenig/
Supervisory Patent Examiner, Art Unit 2623